

ESTTA Tracking number: **ESTTA670220**

Filing date: **05/01/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92060971
Party	Defendant Prime Wire & Cable, Inc.
Correspondence Address	PRIME WIRE & CABLE INC 280 MACHLIN COURT CITY OF INDUSTRY, CA 91789-3026 UNITED STATES
Submission	Answer
Filer's Name	John K. Buche
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Signature	/jkb/
Date	05/01/2015
Attachments	Answer to Petition_FINAL.pdf(15578 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No. 1,727,147

Date of Issue: Oct. 27, 1992

For the Mark: PRIME

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	)	
The ESAB Group, Inc.	)	
	)	Cancellation No. 92060971
Petitioner,	)	
	)	
v.	)	
	)	
Prime Wire & Cable, Inc.,	)	
	)	
Registrant.	)	
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**ANSWER TO FIRST AMENDED PETITION FOR CANCELLATION**

Registrant Prime Wire & Cable, Inc. ("Registrant"), by and through its undersigned counsel, hereby responds to the amended petition for cancellation as follows:

The unnumbered allegation in the preface is denied.

1. Registrant admits the allegations in paragraph 1 of the amended petition for cancellation.

2. Registrant is without knowledge or information sufficient to form a belief as to paragraph 2 of the amended petition for cancellation and therefore denies same.

3. Registrant is without knowledge or information sufficient to form a belief as to paragraph 3 of the amended petition for cancellation and therefore denies same.

4. Registrant denies the allegations in paragraph 4.

5. Registrant denies the allegations in paragraph 5.

6. Registrant denies the allegations in paragraph 6.

7. Registrant denies the allegations in paragraph 7.

8. Registrant denies the allegations in paragraph 8.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

The amended petition for cancellation fails to state a claim upon which relief may be granted.

### **SECOND AFFIRMATIVE DEFENSE**

The claim set forth in the amended petition for cancellation is barred in whole or in part by the doctrine of laches.

### **THIRD AFFIRMATIVE DEFENSE**

The claim set forth in the amended petition for cancellation is barred in whole or in part by the doctrines of waiver, acquiescence, and estoppel.

### **FOURTH AFFIRMATIVE DEFENSE**

Petitioner has not and will not be damaged by the registration of Registration No. 1,727,147 and therefore lacks standing to petition to cancel the registration.

WHEREFORE, Registrant requests that the Cancellation be denied with prejudice.

Dated: May 1, 2015

Respectfully Submitted,

By: /John K. Buche/  
John Karl Buche (SBN 239477)  
Byron MA (SBN 299706)  
**BUCHE & ASSOCIATES, P.C.**  
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ATTORNEYS FOR RESPONDENT,  
PRIME WIRE & CABLE, INC.

### **CERTIFICATE OF SERVICE**

On **May 1, 2015**, I served the following **ANSWER TO FIRST AMENDED PETITION FOR CANCELLATION** on the following interested parties in this action:

Michael E. Hall  
Kacvinsky, Daisak, Bluni PLLC  
3120 Princeton Pike, Suite 303  
Lawrenceville, NJ 08648  
mhall@kdbfirm.com  
*Attorney for Petitioner*

In the manner of service as follows:

  X   **(U.S. MAIL):** I placed an original or a true and correct copy of the foregoing document(s) in a sealed envelope(s) addressed as indicated above. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid as La Jolla, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

  X   **(ELECTRONIC MAIL):** I emailed a true and correct copy of the foregoing document(s) on the parties listed above by transmitting it via .pdf email to the email addresses set forth above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **Friday, May 01, 2015** at La Jolla, California.

By:   /Greg Ryn/

**CERTIFICATE OF TRANSMITTAL**

This is to certify that the attached ANSWER TO FIRST AMENDED PETITION FOR CANCELLATION is being filed electronically with the TTAB via ESTTA on May 1, 2015.

/John K. Buche/

Attorney for Registrant